

TAX RIGHTS & REMEDIES FOR SMEs & LARGE TAX PAYERS

9:00 am to 5:00 pm, Friday, October 5, 2018
EDSA Shangri-La Hotel, Mandaluyong City, Philippines

COURSE OUTLINE

- I. Taxpayers' Rights That Are Useful When Dealing with the BIR - Salient Features
- II. Oplan Kandado: What To Do When the BIR Padlock's Your Business Establishment
- III. What a Taxpayer Need to Know About the BIR Organizational Structure and its Audit Jurisdiction
 - A. District Split
 - B. Newly Created Offices
- IV. Understanding the BIR Tax Audit Programs
 - A. For SMEs
 - B. For Large Taxpayers
- V. Relevant Information About Audit Notices to Examine Books
 - A. Letter of Authority
 - B. Tax Verification Notice
 - C. Letter Notice
- VI. What the BIR look for in an Audit & Common Pitfalls of Taxpayers
- VII. Understanding BIR's Bases of Assessment
- VIII. Assessment Processes
 - A. Filing of Tax Return
 1. Self Assessment of Tax
 - B. Audit of books and Records
 1. Rev. Regulation # 18-2005 (E-VAP For 2004 and Prior Years)
 2. No Audit Program (NAP) For 2004 to 2008
 3. Tax Amnesty Law (RA 9580) For 2005 and Prior Years
 - C. What to do When the BIR Serves You a Notice of Informal Conference
 - D. What to do When Preliminary Assessment Notice (PAN) Arrives
 - E. How to Reply to PAN
 - F. How to Handle Final Assessment Notice (FAN) and Demand Letter
 - G. What Should be in a Protest Letter and Why (30 days from receipt of FAN)
 - H. What Should be in a Supplemental Protest Letter and Why (60 days from the filing of Protest Letter)
 - I. What To Do When The Protest Letter is Denied by the Regional Director, Assistant or Deputy Commissioner
 - J. How to Proceed with an Administrative Appeal To The BIR Commissioner
 - K. Action of the BIR Commissioner
 1. Denial of Protest
 2. Cancellation of Assessment

L. Inaction of the BIR Commissioner (180 days from filing of protest or supplemental protest)

IX. BIR's Collection Enforcement

- A. Warrant of Dstraint and Levy
- B. Warrant of Garnishment
- C. Final Notice Before Seizure
- D. Sale or Forfeiture of Property

X. Remedies of the Taxpayer

(Special Feature: Latest Supreme Court and Court of Tax Appeal Rulings)

A. Administrative Remedies

- 1. Before Payment of Taxes
- 2. After Payment of Taxes

B. Judicial Remedies

1. Court of Tax Appeals

a. Civil Cases

- a.1 Commissioner of Internal Revenue (CIR)s Denial of Protest or Inaction
- a.2 Warrant of Dstraint and Levy (WDL)
- a.3 Claim for Refund or Tax Credit
- a.4 Docket Fees

b. Criminal Cases

- b.1 Original Jurisdiction (Determination of Probable Cause by the DOJ)
- b.2 Appellate Jurisdiction

2. Regular Courts (Regional Trial Court, Municipal Trial Court)

- a. Prescription and Waiver of Statute of Limitations
- b. Subpoena Duces Tecum
- c. Bank Secrecy Law

C. Substantive Remedies

- 1. Questioning the Constitutionality or Validity of the Tax Statutes or Regulation
- 2. Non-Retroactivity of Rulings
- 3. Failure to Inform the Taxpayer in Writing of the Legal and Factual Bases of Assessment
- 4. Preservation of Books of Accounts and Records
- 5. Publication of Administrative Issuance

D. Procedural Remedies

1. Assessment

- a. Communication Is Not Considered an Assessment
- b. Significance of Assessment
- c. Forms of Assessment
 - c.1 When Must Assessment Be Made?
 - c.2 When Is Assessment Made or Deemed Made?

2. Forms of Protest

- a. Request for Reconsideration
- b. Request for Reinvestigation

3. When to File Administrative Protest?

4. Denial Protest

- a. Direct Denial Protest
- b. Indirect Denial Protest

5. Prescription

- a. Period to Assess Tax
- b. Period to Collect Assessed Tax
- c. Period to File Criminal Action

XI. Latest Supreme Court and Court of Tax Appeal Rulings

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